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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,897	03/04/2002	Tomoyuki Yoshida	220287US2	1909
22850	7590	06/21/2006	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				BAKER, CHARLOTTE M
ART UNIT		PAPER NUMBER		
2625				

DATE MAILED: 06/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/086,897	YOSHIDA, TOMOYUKI
	Examiner	Art Unit
	Charlotte M. Baker	2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-22 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 04 March 2002 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 05/30/02; 12/17/03.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

IDS Cont. 12/24/03; 01/16/04; 02/12/04

## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Claim Rejections - 35 USC § 101*

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 16-22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The computer program claimed is merely a set of instructions per se. Since the computer program is merely a set of instructions not embodied on a computer readable medium to realize the computer program functionality, the claimed subject matter is non-statutory. See MPEP § 2106 IV.B.1.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5 and 8-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Fotland (US 2001/0048529 A1).

**Regarding claim 1:** Fotland discloses a storage unit which stores reference image data generated (color separation files) based on image data for reference color patches (col. 2, ln. 19-28); a display unit (video display screen, col. 2, ln. ln. 36-53) which reproduces two images (first digital file and second digital file, Fig. 1, original file 4 and working file 11) based on processed image data and the reference image data stored in the storage unit (col. 2, ln. 36-53), and displays the images so as to be contrasted with each other (video display screen, col. 2, ln. ln. 36-53 and Fig. 1, display screen 10); and an instruction unit (col. 2, ln. 47-53) which issues an instruction (image blink) to execute calibration (compensation) of conversion characteristics in the processing for color conversion (hue, saturation, lightness, gray level, col. 3, ln. 4-10) based on the images displayed on the display unit (video display screen, col. 2, ln. ln. 36-53 and Fig. 1, display screen 10) (col. 2, ln. 47-53).

**Regarding claim 2:** Fotland satisfies all the elements of claim 1. Fotland further discloses an averaging unit which averages the read image data for the reference color patches (col. 2, ln. 25-28) (col. 2, ln. 47-53), on a time varying basis (blink frequency, col. 3, ln. 29-33), wherein the image data averaged by the averaging unit is used as the read image data for the reference color patches that is displayed on the display unit (video display screen, col. 2, ln. ln. 36-53 and Fig. 1, display screen 10) as one of the images to be contrasted (Fig. 1, original file 4 and working file 11).

**Regarding claim 3:** Fotland satisfies all the elements of claim 2. Fotland further discloses a storage unit which stores the image data averaged by the averaging unit (col. 2, ln. 19-28) (col. 2, ln. 47-53), wherein the averaging unit averages a currently read image data and the image data fetched from the storage unit (col. 2, ln. 36-53).

**Regarding claim 4:** Fotland satisfies all the elements of claim 1. Fotland further discloses wherein the color conversion is processing for converting an RGB space (color image is scanned, col. 2, ln. 24-25) that is specific to the color image sensor (color image is scanned, col. 2, ln. 24-25), to a standard color space (YMCK, col. 2, ln. 25-27), and the reference image data stored in the storage unit is data for the standard color space (YMCK, col. 2, ln. 25-27 and col. 2, ln. 36-53).

**Regarding claim 5:** Fotland satisfies all the elements of claim 1. Fotland further discloses wherein the reference image data is data based on colorimetric values of the reference color patches (yellow, cyan, magenta, and black, col. 2, ln. 19-28).

**Regarding claim 8:** Arguments analogous to those stated in the rejection of claim 1 are applicable. In addition, Fotland discloses reading the reference color patches by the color image sensor to obtain image data for the reference color patches (col. 2, ln. 25-28) (col. 2, ln. 47-53). Also, Fotland discloses scanner 2, which is a color scanner (par. 14). The remaining limitations in the claim (light source, color image sensor and color converter) are all inherent to a color scanner (Fig. 1, scanner 2 and par.14, original image 1 is digitally color scanned).

**Regarding claim 9:** The structural elements of apparatus claim 8 perform all of the steps of method claim 9. Thus, claim 9 is rejected for the same reasons discussed in the rejection of claim 8.

**Regarding claim 10:** Fotland satisfies all the elements of claim 9. The structural elements of apparatus claim 2 perform all of the steps of method claim 10. Thus, claim 10 is rejected for the same reasons discussed in the rejection of claim 2.

**Regarding claim 11:** Fotland satisfies all the elements of claim 10. The structural elements of apparatus claim 3 perform all of the steps of method claim 11. Thus, claim 11 is rejected for the same reasons discussed in the rejection of claim 3.

**Regarding claim 12:** Fotland satisfies all the elements of claim 9. The structural elements of apparatus claim 4 perform all of the steps of method claim 12. Thus, claim 12 is rejected for the same reasons discussed in the rejection of claim 4.

**Regarding claim 13:** Fotland satisfies all the elements of claim 9. The structural elements of apparatus claim 5 perform all of the steps of method claim 13. Thus, claim 13 is rejected for the same reasons discussed in the rejection of claim 5.

**Regarding claim 14:** Fotland satisfies all the elements of claim 14. The structural elements of apparatus claim 6 perform all of the steps of method claim 14. Thus, claim 14 is rejected for the same reasons discussed in the rejection of claim 6.

**Regarding claim 15:** Fotland satisfies all the elements of claim 9. The structural elements of apparatus claim 7 perform all of the steps of method claim 15. Thus, claim 15 is rejected for the same reasons discussed in the rejection of claim 7.

**Regarding claim 16:** Arguments analogous to those stated in the rejection of claim 8 are applicable. A computer program is inherently taught as evidenced by (computer, par. 11) and various memories stored therein.

**Regarding claim 17:** Fotland satisfies all the elements of claim 16. Arguments analogous to those stated in the rejection of claim 2 are applicable. A computer program is inherently taught as evidenced by (computer, par. 11) and various memories stored therein.

**Regarding claim 18:** Fotland satisfies all the elements of claim 17. Arguments analogous to those stated in the rejection of claim 3 are applicable. A computer program is inherently taught as evidenced by (computer, par. 11) and various memories stored therein.

**Regarding claim 19:** Fotland satisfies all the elements of claim 16. Arguments analogous to those stated in the rejection of claim 4 are applicable. A computer program is inherently taught as evidenced by (computer, par. 11) and various memories stored therein.

**Regarding claim 20:** Fotland satisfies all the elements of claim 16. Arguments analogous to those stated in the rejection of claim 5 are applicable. A computer program is inherently taught as evidenced by (computer, par. 11) and various memories stored therein.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fotland in view of Whiting et al. (6,618,170).

**Regarding claim 6:** Fotland satisfies all the elements of claim 5. Fotland further discloses wherein reference image data (color separation files); colorimetric values of the reference patches (yellow, cyan, magenta, and black, col. 2, ln. 19-28).

Fotland fails to specifically address adding a predetermined variation.

Whiting et al. disclose adding a predetermined variation (controlling color hue in a printer output, Figs. 3A-3E and col. 4, ln. 11-45).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to include a user interface for selectively adjusting hue of a color print in order to provide a new color controller which is simple in design, readily understandable by a user, easy to operate and which provides improved communication of hue shift commands with reference to a dynamic range image representation of a print output as taught by Whiting et al. (col. 2, ln. 44-50).

**Regarding claim 21:** Fotland satisfies all the elements of claim 20. Arguments analogous to those stated in the rejection of claim 6 are applicable. A computer program is inherently taught as evidenced by (computer, par. 11) and various memories stored therein.

7. Claims 7 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fotland in view of Sakamoto (4,827,351).

**Regarding claim 7:** Fotland satisfies all the elements of claim 1.

Fotland further discloses wherein the reference image data patches (col. 2, ln. 19-28); for the reference color patches (col. 2, ln. 19-28), and by performing color conversion on the image data (hue, saturation, lightness, gray level, col. 3, ln. 4-10).

Fotland fails to specifically address reading a reference patch at the time of manufacture.

Sakamoto discloses is based on data obtained by reading the reference color patches in an initial state at the time of manufacture of the image reading apparatus by the color image sensor to obtain image data (col. 1, ln. 38-44).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to perform a reading of the reference patch at the time of manufacture in order to establish a standard specific to a particular device.

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**Regarding claim 22:** Fotland satisfies all the elements of claim 20. Arguments analogous to those stated in the rejection of claim 7 are applicable. A computer program is inherently taught as evidenced by (computer, par. 11) and various memories stored therein.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charlotte M. Baker whose telephone number is 571-272-7459. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly A. Williams can be reached on 571-272-7471. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*CMB*  
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SUPERVISORY PATENT EXAMINER